

Zoning Text Amendment No: 05-03
Concerning: Signs - Variances
Draft No. & Date: 2 1-27-05
Introduced: February 1, 2005
Public Hearing:
Adopted:
Effective:
Ordinance No:

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Praisner

AN AMENDMENT to the Montgomery County Zoning Ordinance for the purpose of:

- increasing the Sign Review Board from 3 to 5 members.
- transferring authority to approve sign variances from the Sign Review Board to the Department of Permitting Services.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the County Code:

DIVISION 59-F-1 “Purpose, Intent, and Applicability”
Section 59-F-1.3 “General”

DIVISION 59-F-4 “Permanent Sign - Design Elements and Limitations”

DIVISION 59-F-10 “AUTHORITY”
Section 59-F-10.1 “The Director of the Department of Permitting Services”
Section 59-F-10.2 “Sign Review Board”

DIVISION 59-F-12 “Sign Variances”

EXPLANATION: ***Boldface** indicates a heading or a defined term.*
Underlining indicates text that is added to existing laws by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by the original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
***[[Double boldface brackets]]** indicate text that is deleted from the text amendment by amendment.*
** * * indicates existing law unaffected by the text amendment.*

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-F is amended as follows:**

2 **DIVISION 59-F-1. Purpose, Intent, and Applicability.**

3 * * *

4 **59-F-1.3. General.**

5 * * *

6 (b) To provide flexibility in the approval of sign permits, the [Sign
7 Review Board] Department of Permitting Services may approve a
8 variance from any provision of this Article except Division 59-F-7,
9 "Prohibited Signs."

10 * * *

11 **DIVISION 59-F-4. Permanent Sign - Design Elements and Limitations.**

12 Permanent signs are those which are intended to remain posted indefinitely.

13 A permanent sign must obtain a permit [pursuant to] under Section 59-F-9.1 and
14 may require a building permit or electrical permit due to its physical
15 characteristics. Except as provided below, any sign not listed in this Article or
16 which does not conform to the requirements in this Article must obtain a variance
17 from the [Sign Review Board] Department of Permitting Services. [Permanent
18 signs] Any permanent sign located [within] in an approved urban renewal area as
19 part of an optional method development project [are] need not [required to]
20 conform to the Design Elements and Limitations provisions of this Article[,
21 provided the signs are] if the sign is approved by the Sign Review Board as part of
22 a sign concept plan [pursuant to] under Section 59-F-10.2(b)(1)(H). However, the
23 Sign Review Board must hold a public hearing on any sign concept plan [within]
24 in the Urban Renewal Area, after 30-day notice, and verify that the applicant [for
25 the sign concept plan approval] has complied with the variance notification
26 requirements of [59-F-10.2(b)(1)(G)] Section 59-F-10.2(b)(1)(F).

27 * * *

28 **DIVISION 59-F-10. AUTHORITY.**29 **59-F-10.1. The Director of the Department of Permitting Services.**

30 (a) Enforcement.

31 * * *

32 (4) Enforcement of Variances. The Director must enforce the
33 conditions and terms of a variance issued by the [Sign Review
34 Board] Department of Permitting Services.

35 * * *

36 (b) Permits and Licenses.

37 (1) Permits. The Director may issue a permit required by this
38 Article [upon compliance by] when the applicant complies with
39 [the requirements of] Section 59-F-9.1. A permit may be
40 issued:41 (A) for each sign on an individual basis; or
42 (B) for each sign on a collective basis [following the
43 acceptance and approval of] after a sign concept plan [as
44 required in] is approved under subsection 59-F-9.1(c)(7).
45 Except for optional method development [within] in an
46 [approved] urban renewal area, when a sign concept plan
47 exceeds the maximum allowable sign area for the site,
48 the applicant must seek a variance from the [Sign Review
49 Board] Department of Permitting Services in
50 conformance with subsection 59-F-10.2(c)(2).

51 * * *

52 (d) Relief from an Action of the Director.

53 (1) Variance from the [Sign Review Board] Department of
54 Permitting Services. An applicant may file a request for a

55 variance with the [Sign Review Board] Department of
56 Permitting Services if the Director denies a sign permit because
57 the proposed sign fails to comply with [the standards of] this
58 Article.

59 * * *

60 **59-F-10.2. Sign Review Board.**

- 61 (a) Composition. The Sign Review Board [is established as an agency
62 which] consists of [3] 5 members:
- 63 (1) appointed by the County Executive[, subject to the confirmation
64 of] and confirmed by the Council, and [bound by the
65 requirements of] subject to Section 2-148 [of the Code];
66 (2) who are residents of the County;
67 (3) one of [the members] whom must [be the operator of] operate a
68 business in the County;
69 (4) one of [the members] whom must be [a State of Maryland
70 licensed] an architect licensed in Maryland. [Prior to the
71 appointment of this member the County] The Executive must
72 request from the Potomac Valley Chapter of Maryland,
73 American Institute of Architects, recommendations of architects
74 who are [well] qualified to serve on the [Sign Review] Board,
75 [however] but the [County] Executive is not limited to [this] the
76 Chapter's recommendation;
77 (5) one of [the three members] whom must be [appointed
78 chairperson] designated as chair by the [County] Executive,
79 subject to confirmation by the Council; and

(6) each [member] of whom serves a 3-year term, except that an appointment to fill a vacancy occurring before [the expiration of] a term expires is for the remainder of the unexpired term.

(b) Powers and Duties.

* * *

[F] not grant a variance for signs covered under division 59-F-7. "Prohibited Signs," or for requirements in Section 59-F-9.2. "License."]

[G)] (F) [Notification] Notice.

1. Verify that an applicant for a sign variance has:
 - a. Submitted to the Director with the application for a variance a list of all those to be notified of the hearing. The list must include:
 - i. Owners and residents of all properties contiguous or opposite to the proposed location of the sign. In the case of individual condominium owners within multi-family buildings, the condominium's council of unit owners may be notified instead;
 - ii. Officials of the local citizens association(s);
 - iii. Any municipality or special taxing district [within whose territory] where the proposed sign [is] would be located;
 - iv. The technical staff of the [Maryland National Capital Park and Planning Commission,] Planning Board if the sign [is]

107 to] would be located on property under a
108 Section 59-D-3 site plan agreement; and
109 v. Any citizen association or person/agency
110 that has expressed an interest to the
111 government or the applicant.
112 b. Notified all persons and organizations on the
113 list at least 15 days before the hearing.

114 2. Notify the parties of record of the [Sign Review Board]
115 decision.

116 * * *

117 (2) Powers. The Sign Review Board may:
118 (A) [provide a recommendation to] advise the Director [as to]
119 whether an application for a permit [meets the
120 requirements of] complies with this Article or needs a
121 variance;
122 (B) order the appearance of a person or evidence at a hearing
123 before them; and
124 [(C) hear and decide an application for a variance from the
125 sign regulations of this Article after finding that:]
126 [1. the strict application of the sign regulation results
127 in a particular or unusual practical difficulty,
128 exceptional or undue hardship, or significant
129 economic burden upon an applicant;]
130 [2. the variance is the minimum reasonably necessary
131 to overcome any exceptional conditions; and]
132 [3. the variance can be granted without substantial
133 impairment of the intent, purpose, and integrity of

the requirements of this Article. A variance decision must be based on consideration of:

- [(i) one or more of the following elements: size, shape, color, design elements, location, or cost of the sign;]
 - [(ii) the compatibility of the proposed sign with the surrounding property, the proximity of other signs, and the characteristics of the area; and]
 - [(iii) the recommendations of the Maryland-National Capital Park and Planning Commission or technical staff, if requested by the Sign Review Board or offered by the Commission.]

- [D] decide an application for a variance which involves a sign on property subject to a special exception issued by the Board of Appeals when:]

- [1. the findings of subparagraph (C) above have been satisfied; and]
 - [2. the Board of Appeals has approved the sign.

Nothing in this subparagraph precludes the Sign Review Board from imposing more restrictive conditions than the Board of Appeals, but it must not approve a variance for a sign which is less restrictive than the conditions set by the Board of Appeals.]

(E) (C) approve a right-of-way sign as stipulated in subsection 59-F-7.1.(f)(2) [based upon] after receiving a recommendation from the appropriate transportation jurisdiction[;].

|(F) impose conditions and terms on a sign variance; and|

|(G) conduct a show cause hearing for revocation of a

previously granted sign variance when it determines:]

[1.] the applicant supplied inaccurate information to

the Sign Review Board, or]

[2. the terms of a variance set by the Sign Review

Board have not been met or have been violated.]

* * *

DIVISION 59-F-12 **Sign Variances.**

(a) The Director of Permitting Services, or the Director's designee, may:

(1) after a hearing, approve an application for a variance from the sign regulations of this Article if the Director find that:

(A) the strict application of the sign regulation results in a particular or unusual practical difficulty, exceptional or undue hardship, or significant economic burden on an applicant;

(B) the variance is the minimum reasonably necessary to overcome any exceptional conditions; and

(C) the variance can be granted without substantial impairment of the purpose of this Article. A variance decision must consider:

(i) the sign's size, shape, color, design elements, location, or cost:

- 187 (ii) compatibility of the proposed sign with the
188 surrounding property, the proximity of other signs,
189 and the characteristics of the area; and
190 (iii) any recommendation of the Planning Board or its
191 technical staff;
- 192 (2) approve a variance for a sign on property subject to a special
193 exception issued by the Board of Appeals if:
- 194 (A) the elements of subparagraph (a)(1)(A) have been
195 satisfied; and
- 196 (B) the Board of Appeals has approved the sign. Nothing in
197 this paragraph precludes the Director from imposing
198 more restrictive conditions than the Board of Appeals,
199 but the Director must not approve a variance which is
200 less restrictive than any condition set by the Board of
201 Appeals;
- 202 (3) after hearing, revoke a previously granted sign variance if the
203 Director finds that:
- 204 (A) the applicant supplied inaccurate information, or
205 (B) the terms of a variance have not been met.
- 206 (b) The Director may impose conditions and terms when approving a
207 variance.
- 208 (c) The Director must not approve a variance for any sign prohibited
209 under Division 59-F-7, or vary any requirement of Section 59-F-9.2.

211 This is a correct copy of Council action.

212 _____
213 Elda M. Dodson, CMC, Acting Clerk of the Council

Date